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Constitution of league of nations

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SPEECH
OF
HON. PHILANDER CHASE KNOX
IN THE
UNITED STATES SENATE

MARCH 1, 1919

**CONSTITUTION OF LEAGUE
OF NATIONS**



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SPEECH
OF
HON. PHILANDER CHASE KNOX.

CONSTITUTION OF LEAGUE OF NATIONS.

Mr. KNOX. Mr. President, the Official Bulletin—printed daily under the order of the President of the United States—has published, under date of Friday, February 14, 1919, and under the title “Text of covenant on league of nations,” the report of the peace conference commission on the league of nations. The document was read to the plenary session by the President, chairman of this particular commission, who accompanied his reading with comments. This document and the league plan which it outlines, in so far as they can be understood, may include so much that is strange to our traditional foreign policy, contrary to our fundamental principles of international intercourse and conduct, destructive of treaty rights, indispensable to the safety of ourselves and other nations of this hemisphere, and so much that would require—before and in order that it could become operative—such basic changes in our Constitution to enable us to make the necessary surrender of high sovereign rights on which our great liberties rest, that not only the Senate, which in due time may be called upon to advise and consent to the ratification of the plan, but the entire Congress and the whole people of the United States must give thereto the fullest and most mature, careful, and calm consideration. The

submission of this plan for adoption will constitute for our people far and away the greatest and most important matter placed before them since the Nation was founded. We are now invited to assist in forming and become a part of the united States of the world.

As I have already stated, the document which we have before us is, in its present form, merely the report of a commission; it has been laid on the conference table at plenary session, from which, as Mr. Clemenceau has assured the members, it may be removed for debate, amendment, and adoption or rejection. In view of these facts, we might well forego its discussion until the conference in plenary session has adopted it, except that the report itself has acquired for this Nation a peculiar significance by reason of the fact that the President presided over the body which drafted it; that he participated in the proceedings incident to the drafting; that as president of the commission he read the report submitting it to the plenary session of the conference; that he indorsed the document and thereby committed himself as National Executive to it; and that he has officially assured, in his cable to the members of the Foreign Relations Committees of the two Houses of Congress, that there are good reasons even for the verbiage of the document, crude as that is.

By way of clearing the ground and that no doubt may exist as to my own personal attitude on war and the pacific settlement of international disputes, I crave indulgence at this point for a few words of explanation in order that such negative conclusions as I may reach shall not be charged to unfriendliness or bias. I may, in the first place, observe that I am, and always have been, against war and all its attendant woe, misery, horrors, and crime. In common with all Christians, I can not and would not

do otherwise than condemn it in terms as extravagant as language can frame.

Feeling thus, I shall at any and all times do my utmost to bring into the world a reign of law, of order, and of universal peace. No man dreams loftier or feels more intensely than I on these matters. I realize, moreover, that with nations as with individuals sacrifice brings growth, moral and spiritual, and, further, that when all is said and done the moral and the spiritual things are all that are worth while in life, national and individual. I am willing, therefore, personally to sacrifice, and to see my country sacrifice, the utmost possible to the establishment of peace and righteousness in the world. But my country's sacrifice counts for so much in the world that, since mere sacrifice itself availeth little, I wish to make sure before placing our national offering on the altar that, when the fire is kindled and the offering is burned, we shall have measurably and proportionately advanced the cause of human liberty and happiness. It is in this spirit that I approach the discussion of the present project.

After the most mature deliberation it is possible for me to give, I am convinced that you may place the case as high as you will, yet you can not in the present state of society spell out an attainable end which would justify the destruction of our great country and Government—the greatest democracy of all recorded time. Our liberties, our free institutions, our civilization, traditions, and ideals are all worth all we have ever given to get them and all we could possibly give, even to the point of extermination, to preserve them. Conjure in your mind, if you can, a world without the Declaration of Independence, without our Constitution and free institutions, without our proc-

clamations of emancipation of races and of nations, without this Nation itself, which all these things have builded and made mighty, and then tell me, I challenge you, what is in that now put before us which would fill in terms of blessing—not to ourselves but to the world—the gap caused by their blotting out. The world has nothing more precious for man to-day and for the myriad generations yet unborn than our own great Government, institutions, and people—a people which, without the obligation of treaty or alliance, without thought of gain, and with only the thought of protecting eternal right, put on the full accouterment of war and went to battle that the inalienable human rights of life, liberty, and the pursuit of happiness might still have a dwelling place among men, “that government of the people, by the people, and for the people might not perish from the earth.”

Holding our Government and its institutions in this fervent reverence, and profoundly averse to war for its own sake, I must for myself demand that any plan proposed shall, to secure my support, meet these simple and reasonable tests:

Do its provisions abolish war and make it hereafter impossible? For I would be willing we should go far and risk much to accomplish this. Do its provisions strike down our Constitution or destroy our sovereignty or threaten our national independence and life? For if the plan proposed does these things, then it must receive the condemnation of every loyal citizen. And I tell you here in all soberness that these matters must be approached by all of us in a spirit of candid fairness, without cavil, bias, or partisanship, for our fate and the fate of the world, if this matter go certainly forward, waits upon our decision. And one word further, let me say, if we are to go forward with this plan it must be whole-heartedly and with absolute

good faith. Neither we nor those who represent us in the league bodies must trifle with our sacred plighted word. For weal or for woe we must stand by our covenant. We must never leave in our history the taint of the "scrap of paper."

Having thus made my explanation, I proceed to the plan itself, which I shall discuss without heat or color and with such judicial calm and fairness as I am able to bring to my command.

Any definite and precise examination or criticism of the covenant is made immeasurably difficult because of the looseness of expression which characterizes the document throughout; and, while I shall not take your time to discover mere matters of verbiage, there are two such matters to which I invite your attention, because they relate to matters more or less basic. The first is the language of article 1, which provides that "the action of the high contracting parties * * * shall be effected through the instrumentality of meeting of a body of delegates." This, as a matter either of language or of logic, is sheer nonsense, and yet this article purports to lay down one of the fundamental precepts of the plan. One is tempted to believe on casual reading that this is mere infelicity of expression and that, after all, the meaning may be plain; but further study raises a serious doubt, because it is not at all clear whether the document sets up one or two operating entities for its enforcement, as the following extracts will show:

Article 1 prescribed that "the action of the high contracting parties under the terms of this covenant shall be effected through the instrumentality of meeting of a body of delegates representing the high contracting parties," and not of the league.

Article 11 declares that any war or threat of war is a matter of concern to the league, and that "the high contracting parties reserve the right to take any action that may be deemed wise and effectual to safeguard the peace of nations." Assuming the language is carefully chosen, it is obvious that it is quite impossible for the league itself, which is the creature of the high contracting parties, to reserve a right against the parties creating it, and yet it is quite intelligible and accurate to say that the high contracting parties who create the league reserve a right as against the league itself.

Again, in the last paragraph of article 19 the high contracting parties "agree to establish" a mandatory commission, which shall, *inter alia*, "assist the league in insuring the observance of the terms of all mandates."

Article 15 provides that in case a dispute "between States, members of the league," has not been submitted to arbitration under article 13, and possibly 12, then "the high contracting parties agree that they will refer the matter to the executive council," but "either party to the dispute may give notice of the existence of the dispute to the secretary general" of the league.

Under article 18 "the high contracting parties agree that the league shall be intrusted with general supervision of the trade in arms and ammunitions," and so forth. It would be absurd here to substitute "league" for "high contracting parties," so that the sentence would read, "The league agrees that the league shall be intrusted," and so forth.

Again, in article 21, "The high contracting parties agree that provision shall be made through the instrumentality of the league to secure and maintain freedom of transit and equitable treatment for the commerce of all

States members of the league." Obviously here the high contracting parties and the league can scarcely refer to the same operating entity.

How important this matter of a possible double international entity is becomes at once apparent when it is observed that the provisions of the supercovenant of article 10 reads, "The high contracting parties undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all States members of the league."

I shall later comment upon other covenants of the high contracting parties; when it will become increasingly apparent how indispensable it becomes to have this point cleared up, because if the high contracting parties do not comprise every State that is a member of the league, then the burden assumed by the high contracting parties, whoever they may be, possibly the "big five," is crushing in its weight.

One other point closely akin to the two foregoing should be considered here. The text, as printed in the Official Bulletin, is entitled "Covenant on the league of nations." Now, the term "league of nations" as applied to the organization contemplated by this covenant is, if judged by popular conception, a deceptive misnomer. The popular thought is that a league of nations means a league of all the nations of the world. Such, however, is not the league provided for in the document now before us, save in remote contemplation, for under this proposed plan the nations of the world are divided into three classes:

First. "Signatories" of the covenant; these are not named, but it is assumed they will include and possibly be confined to the five great entente powers; that is to say, the British Empire, France, Italy, Japan, and the United States.

Second. "States not signatory to the covenant but named in the protocol attached to the covenant"; no information is given as to who these States are, though surely they will include such entente powers, if any, as are not signatories as well as certain other States neutral in the conflict now closing; and

Third. Those States which are neither signatories nor protocol States and which must, to be admitted to the league, be prepared to give certain effective guaranties as to their intention to be bound by their international obligations. These latter are outcast States and presumably include the central powers and their allies in the war.

Thus a league of nations in the sense of all the nations is not created by this document, nor are the States members of the league treated as equals, as is apparent, and will be more fully shown when it is considered that the governing body of the proposed league, namely, the executive council, is made up of representatives of only nine States.

But the term league is a misnomer in another and really vital matter. For a league connotes a confederation, and a confederation implies a right in the several parties to withdraw at their will. But there is no right of secession within the four corners of this covenant. On the other hand, the association here provided for is a union in the full sense of that term as applied to our own political institutions. Once in this union and we remain there no matter how onerous its gigantic burdens may become. No matter how great the distaste and revulsion our people may have for it, we must remain members until either we persuade all the States represented in the executive council and three-fourths of those represented in the body of delegates to bid us depart in peace or until the league

crumbles of its own weight or is destroyed by its enemies or until we fight our way out against the British Empire, France, Italy, Japan, and all the lesser States they are able to persuade to join the league.

It is well that all discussions of this project should be had with the foregoing preliminary matters in mind.

In proceeding with my analysis it will be convenient to examine first the machinery set up by this document for carrying out its covenants, noting the powers and duties of the respective parts, and then to consider the broad matters of substance. The document before us establishes six operative league bodies as follows:

Body of delegates.

Executive council.

Military naval commission.

Mandatory commission.

Bureau of labor.

Permanent secretariat.

1. BODY OF DELEGATES.

The body of delegates is to be made up of representatives of the "high contracting parties," each party to have not more than three delegates but to have only one vote.

The specific jurisdiction given to the body of delegates in the instrument bestows roughly three broad powers—first, to entertain reports made by any of the "high contracting parties" of "circumstances affecting international intercourse which threaten to disturb international peace or the good understanding between nations upon which peace depends"; second, to take jurisdiction of a dispute not settled by arbitration which is referred to it by either party thereto or by the executive council providing this reference is made within 14 days after the dispute is

submitted to the executive council, in respect of which reference the body of delegates has the same actions and powers concerning the dispute as would the executive council if it continued to entertain jurisdiction; and third, to advise the reconsideration by members of the league of those treaties which have become inapplicable and of international conditions the continuance of which may endanger the peace of the world. The body of delegates is also ultimately to choose the four other States not named in the document, who shall be represented on the executive council, and is also to vote on the admission to the league of certain outcast States to be noted later.

But the document contains no provisions whatever regarding the appointment, removal, compensation, or tenure of these representatives who are to exercise these powers. Neither is there any provision covering the organization of the body or how it shall vote or function, nor what number of States or delegates constitute a quorum for doing business, whether distinctions shall be made as to the number necessary to transact different kinds of business, beyond the provision of article 4, which puts matters of procedure and the appointment of committees into the hands of a "majority of the States represented at the meeting."

2. EXECUTIVE COUNCIL.

The executive council is to be made up of representatives of the British Empire, France, Italy, Japan, and the United States, and of four other States to be selected "by the body of delegates on such principles and in such manner as they think fit," that is nine States in all.

The jurisdiction of this superbody, thus made up of representatives of nine out of the half hundred States,

more or less, which compose the world, is stated to be "any matter within the sphere of action of the league or affecting the peace of the world." But in addition to this general grant of jurisdiction certain specific powers are bestowed, the more important of which may be stated in general terms as follows:

Making plans for the disarmament of the world, determining what is fair and reasonable military equipment and armament for each nation, and deciding regarding any increase in armament of any power; formulating plans to cure the evils of private manufacture of munitions of war; devising means for fulfilling the obligations to preserve—if necessary by armed force—the territorial integrity and existing political independence of all States members of the league against external aggression; sitting in judgment on and making recommendations regarding any dispute whatsoever arising between the high contracting parties; proposing steps for the enforcement of arbitral awards; formulating plans for establishing a permanent court of international justice; proposing measures necessary to give effect to their own recommendations; recommending what effective military or naval forces each member of the league shall contribute to protect the covenants of the league, seemingly, not only against league but nonleague members, that is, as a practical matter, the power to declare war; determining the conditions upon which nonmembers may assume the obligations of the league for the purpose of any particular dispute and examining and making recommendations concerning any dispute which may arise between members of the league and nonmembers or among nonmembers themselves; taking such action and making such recommendations as will prevent hostilities between two nonmember disputing

States who have declined to accept the obligations of membership in the league for the purpose of dispute; and defining in a special act or charter "the degree of authority, control, or administration to be exercised by the mandatory State over the colony or territory placed under its protection."

Obviously, as already suggested, this is the real governing body of the league, yet such essential matters as what shall be the number of representatives from each State, who shall fix the number, shall the States be represented by an equal number of representatives, what shall be the manner of organization and voting, are not stated in the document. Neither does the document provide for the appointment, removal, compensation, or tenure of these representatives, though the document provides that procedure at the meetings of the council, including the appointment of committees to investigate particular matters, is to be regulated by the council "and may be decided by a majority of the States represented at the meeting." Who shall call the meetings, except the first, how many States or representatives shall constitute a quorum, what, if any, matters would require more than a majority vote, and all other vital matters connected with the deliberations of this world-ruling body are entirely unprovided for. And yet, this is the body which is hereafter to determine whether we, the people of the United States, shall go to war, and what our participation therein shall be.

Nor are these all the defects of the instrument in respect of the operations of the executive council. There are absolutely no principles, rules, or regulations laid down in covenant by which this world-governing body is to be guided. It makes its own principles, rules, and regulations; it hales before it every power, whether league mem-

ber or not, whom it believes has violated any such principle, rule, or regulation; it sits as a court to determine whether any violation has actually occurred; it passes judgment upon a violation when found; and it determines the means which shall be used in enforcing its judgments or recommendations, the league being bound to furnish the means so determined upon.

I am not unmindful of the fact that by the "covenant-preamble" international cooperation and international peace and security are to be promoted, *inter alia*, "by the firm establishment of the understandings of international law as the actual rule of conduct among governments." But this provision merely accentuates the difficulty, for there is no universally recognized body of international law and no provision is made in the instrument for even an attempt to secure one. Indeed there are many great and fundamental differences of opinion as to what is the rule or principle of international law on many grave questions, and even the customs of nations, not generally regarded as having yet ripened into international law, are greatly at variance. Thus the executive council in reality stands in a position, as already stated, to make its own law, rules, and regulations. To sum up, the executive council is legislature, court, and in a large part, executive, all in one. A body clothed with powers such as this is an anachronism. It belongs not to the enlightened age of the twentieth century but to the days of the Medes and Persians. A union more abhorrent to our traditions, to our free institutions, to the trend of all civilized government, could not be devised.

3. MILITARY NAVAL COMMISSION.

The permanent military naval commission provided for in article 9 is to "advise the league on the execution of the

provisions of article 8—which relate to disarmament—and on military and naval questions generally.” That is to say, it is the great general staff of the league, and seemingly is to be laden with the entire military responsibility thereof in whatever military activities the league may undertake. The document submitted contains absolutely no intimations as to the composition of the commission, the number of members, the method of appointment, the States from which they shall be appointed, their removal, their compensation, or their tenure. Neither are there any rules, beyond the most general, laid down for their guidance and control.

4. MANDATORY COMMISSION.

The mandatory commission is to be established by the high contracting parties, and it “is to receive and examine annual reports of the mandatory powers and to assist the league in issuing the observance of the terms of all mandates.” The same indefiniteness exists as to the organization and operations of this commission that exists with reference to the military naval commission.

5. BUREAU OF LABOR.

The high contracting parties agree to establish “as part of the organization of the league a permanent bureau of labor,” which is set up to carry out the undertaking of the high contracting parties that they “will endeavor to secure and maintain fair and humane conditions of labor for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations” extend. Here again are no details as to the composition, organization, appointment, removal, compensation, or tenure of the members of this bureau.

Read in the light of the provision of article 21, which requires that the high contracting parties shall make provision through the instrumentality of the league "to secure and maintain * * * equitable treatment for the commerce of all States members of the league," the question arises as to whether or not it is the intent of these provisions to put the labor of all countries upon an equality, and if this be the intent and purpose of the document, then the labor of this country may well consider, inasmuch as France has already given notice that it will be impossible for French labor to be put on an equality with American labor in hours of work, whether American labor is to be brought to the level of French labor in this regard, in order that there may be equitable treatment of the commerce of the two countries.

6. PERMANENT SECRETARIAT.

Finally, there is the permanent secretariat which apparently is to perform the ordinary secretarial duties both for the body of delegates and for the executive council.

The duties of the secretariat are, in addition to the secretarial services necessary for the body of delegates and the executive council, to receive from "parties" in dispute, statements of their cases, with all relevant facts and papers and to register and publish all treaties hereafter entered into by regular members.

This is the machinery of the league. The mere narration I have made shows great gaps in indispensable provisions and procedure. I assume I need make no argument to establish that before we become parties to any such plan as herein proposed, we must know something, must have some assurance on these vitally important matters now unprovided for. Nor can it be properly said.

that these are mere details which have no place in a great document, for all are of the kind which are provided for in our own Constitution, which certainly is entitled to rank fully with this covenant as to novelty of plan and provision and as to importance and far-reaching consequences.

Referring again to the possible distinction between the high contracting parties and the league, and the fact that seemingly the document provides for these two international entities, each with its own rights, duties, and obligations, it is most important to note the nature of the covenants which under this document are to be entered into by the high contracting parties—and we must remember that what the high contracting parties covenant we covenant; their obligations are our obligations—and by the league, respectively. The proceeding may prove tedious, but it appears to me necessary that these covenants be fresh in our minds for the discussion with which I intend to follow them. In listing the more important of them I shall follow the order in which they occur in the document, without attempting to correlate those of like nature. Those of the high contracting parties are as follows:

The high contracting parties agree, in connection with the program for disarmament, not to conceal from one another the condition of their industries capable of being adapted to warlike purposes; to give a full and frank interchange of information as to their military and naval programs; and not to exceed the armament limits proposed by the executive council and adopted by themselves except with the consent of the council.

The supercovenant of article 10 obligates these parties, including ourselves, to respect and to preserve against

external aggression the territorial integrity and existing political independence of all league members. It is to be noted that this guaranty runs not alone to the existing territory of nations, but to any territorial extent to which they may hereafter attain. If, for example, any of the German colonies shall ultimately be incorporated into the territory of any of the parties, this guaranty will run to this extension. It should be here further observed that if there is a difference between the high contracting parties and the league, then it is high contracting parties, including ourselves, and not the whole league, which guarantee not only their own territorial integrity and independence but the territorial integrity and political independence of every other member of the league.

By article 12 the parties agree not to resort to war against any high contracting party over any dispute whatsoever until the matter has been submitted to arbitration or subjected to inquiry before the executive council, and not then until three months after a decision by either; and, further, not to resort to war in any event against any member of the league which complies with the award of arbitration. It may be remarked in passing two things are obvious: First, that this does not prevent but merely delays war by the high contracting parties, except that, second, if a member of the league obtaining the judgment before the arbitration tribunal or the council accepts the benefit of the judgment—as, of course, the winning party would all but universally do—then the losing party shall not under such circumstances go to war against the winning party.

Article 13 contains a narrower covenant to arbitrate difficulties with an undertaking to carry out the award in good faith.

By article 15 the high contracting parties agree to refer to the executive council any dispute not submitted to arbitration and likely to lead to rupture which may arise between States members of the league; "the parties" agree to communicate to the secretary general "statements of their case," with all relevant facts and papers, which the executive council shall forthwith direct to be published, and, further, that they will not go to war "with any party" which complies with any recommendation of the executive council which is unanimously concurred in by all members of the council except the parties to dispute. Seemingly they may go to war over a recommendation of the council which is not unanimously concurred in by all members of the council, except the parties in dispute. Finally, this article stipulates that the high contracting parties agree that if any party refuses to comply with any such recommendations so made the council shall propose measures necessary to give effect to their decision.

Under article 16 it is agreed that if any of the high contracting parties breaks or disregards its covenants under article 12—the article in which the parties bind themselves not to go to war except under certain conditions—that then the parties shall subject the offenders to a severance of trade and financial relations and of intercourse between nationals of the offending State or States, and to the prevention of all financial, commercial, or personal intercourse between the nationals of offending States and the nationals of all other States. Moreover, the high contracting parties bind themselves mutually to support one another, first, in the financial and economic measures which may be taken under article 16 "in order to minimize the loss and inconvenience" resulting from the measures outlined in this article, and, second, in resisting any special

measures aimed at one of their number by a covenant-breaking State.

In article 17 the parties agree that in disputes between members of the league and nonmembers thereof, or in disputes entirely among nonmembers, the involved nonmembers shall be invited "to accept the obligations of membership in the league for the purpose of such dispute" upon conditions fixed by the executive council. If this invitation be accepted, the preceding provisions shall be applied with modifications deemed necessary by the league. If the power so invited refuses to accept the obligations of membership in the league for the purposes of such dispute, and if such power takes against a league member any action which, if taken by such a member, would constitute a breach of article 12—that is the article which contains the covenant against a resort to war—then the provisions of article 16—the article which contains the sanction by which observance of article 12 is to be compelled—shall be applicable as against the unwilling State. With reference both to this article and to article 16, it should be recalled that it is the duty of the executive council in case the prescribed peaceful means of coercion do not suffice to bring the offending State to terms, "to recommend what effective military or naval forces the members of the league shall severally contribute to the armed forces to be used to protect the covenants of the league."

By article 20 the high contracting parties undertake to endeavor to secure and maintain fair and humane conditions of labor in member States and among nonmember States and agree to establish as part of the organization of the league a permanent bureau of labor—a somewhat drastic potential interference, not merely with our Federal but with our State powers as well.

In article 21 the high contracting parties agree that provision shall be made through the league to secure and maintain freedom of transit and equitable treatment for the commerce of all members, with special arrangements in regard to the necessities of regions devastated in the present war.

Under article 23 the high contracting parties agree that every treaty hereafter entered into shall be registered with the secretary-general, and that no such treaty shall be binding until so registered.

And by article 25, probably the third most important in the entire document, the high contracting parties agree that this covenant shall abrogate all obligations inter se which are inconsistent with the terms thereof, and that they will not enter into any other engagements which are thus inconsistent. In case any powers make, after entering the league, inconsistent obligations, they must take immediate steps to procure release from such obligations. In passing I raise this as a question of no little importance: Since the covenants of the league guarantee territorial integrity and political independence of league members, then a similar covenant between any two members of the league would probably be considered an inconsistent obligation; and if this be true, I invite the attention of the Senate to the possible abrogation of the Platt amendment treaty between ourselves and Cuba—a treaty heretofore regarded as indispensable to our national welfare and safety—in case both Cuba and the United States become members of the league.

The foregoing are the most important covenants which run in the name of the high contracting parties.

I wish now to direct your attention to the powers which run in the name of the league as such, and to renew my

invitation that you consider well the differences between the two sets of covenants and powers, and to my question as to whether the plan contemplates two international entities, namely, the high contracting parties and the league.

By article 7 the league is to prescribe conditions of entry into it of the outcast States; by article 17 the league is to be intrusted with the general supervision of trade in arms and ammunition in countries where a control of the traffic of such is necessary to the common interest; by article 19 the league, assisted by the mandatory commission, is to insure an observance of all mandates; and by article 21 the league is to be the instrument through which the high contracting parties shall secure and maintain freedom of transit and equitable treatment of commerce of all members, together with special arrangements with regard to the necessities of regions devastated in the present war.

These are the sum total of the powers and obligations which in this covenant run to the league as such. How great the undertakings of the high contracting parties, how meager the obligations of the league itself is evident from this enumeration.

Nowhere is it more important to determine whether the high contracting parties are operating as an international entity than in the construction of article 11, which reads:

Any war or threat of war, whether immediately affecting any of the high contracting parties or not, is hereby declared a matter of concern to the league, and the high contracting parties reserve the right to take any action that may be deemed wise and effectual to safeguard the peace of nations.

It is obvious that if the reservation of the right to take action under this article is to the high contracting parties

as an entity, that they thereby have assumed jurisdiction of the world; whereas if the reservation of the right of the high contracting parties to take action is a reservation of the right to the nations as individuals, the whole proposition is a rope of sand.

And in considering all this it must be remembered that once we enter this league and assume these obligations, we can not secure any modification thereof except with the consent of all the States whose representatives compose the executive council and of three-fourths of the States whose representatives compose the body of delegates. What a magnificent field we would thus create for grandiose international political manipulation by ambitious men and groups!

With this analysis before us, we are now in a position to consider the application of the rules by which, in my judgment, this proposal must be tested:

First. Do its provisions abolish war and make it hereafter impossible? There is not an important article in the document which does not specifically answer that question "No." And, further, the scheme provided therein holds out a higher promise—nay, assurance—of a future world-wide war, greater than any which has gone before, than any other document in the history of recorded time.

I have already pointed out that the covenant provides for three sorts of States; first, "signatories" of the covenant; second, protocol States; and, third, outcast States, which I take it are the central powers and their allies.

Now, it is unnecessary to labor an argument to show that the inevitable result of outlawing the central States will be to drive them more closely together for mutual self-protection, and that this in turn will make the formation of a second league of nations almost an assured certainty.

It may well be that this second league will not at the outset be constituted with all the formalities which mark the one we have under consideration, but in all human probability such a league will be somehow formed, by informal understanding or otherwise, and when so formed will bid for the adherence to it of neutral States. We would thus have in no distant future two great leagues of nations, which will become two great camps, each preparing for a new and greater life and death struggle. Our only escape from this result, under this plan, would be through the exercise of such a tyrannical despotism over the peoples of the central powers as we, with all our traditions and ideals, must not become a party to, for it would be violative of all of those human rights for which our fathers fought and which our own Constitution guarantees. Moreover, to keep peoples in such a state of subjection as would be necessary to obviate the result above pointed out, would require such an expenditure of effort, treasure, and blood as never would be permanently tolerated by our people. Thus the plan proposed, instead of being a plan by which the permanent peace of the world would be assured, becomes a plan under which a constant warfare or a potential great world-wide conflagration becomes an assured fact.

In other words, this plan, as the prescriptions of the document demonstrate, is in effect merely an offensive and defensive alliance between certain picked powers as between themselves, and a coalition among them as against the balance of the world, and this coalition is formed with an avowed and published purpose to impose upon the stranger powers the will of the coalition, not merely in matters relating to the prevention of war but in all other matters in which the conduct of the stranger powers

affects the members of the coalition. This is tyranny, nothing more, nothing less. Has history ever answered an attempt to do this thing save in one way, and has that way ever spelled anything but disaster for the coalition? Is such a proposal not monstrous, and, if so, can it have our support? Must our every effort not be to avoid so dividing the world into two warring camps? In what respect will the situation so formed differ from that created by the centuries-old doctrine of balance of power, save only that now, for the first unhappy time in our history, we are to be placed in one side of the balance?

“But,” it is said, “this is all merely potential, it may not happen, and therefore the league should not for that be condemned.”

Grant this, for the sake of argument: What then?

In the first place, the league plan still regards war as legal and as possible in the following more obvious cases:

First. Under article 12, if two of the high contracting parties have a dispute which is submitted to arbitration and with the award of which neither party is satisfied, they may properly go to war after an interval of three months from the date of the award.

Second. Under the same article, if there is a like dispute between like parties, and the matter is submitted to the executive council, which makes a recommendation which neither party is willing to accept, then the parties may after three months properly go to war.

Third. Under article 15 if a dispute goes either to the executive council or the body of delegates, and either body gives a decision unanimous, except as to the parties in dispute, and this decision is unacceptable to both parties to the dispute, then they may legally go to war.

Fourth. It would seem, under the same article, that if neither the executive council nor the body of delegates can

reach a decision which is unanimous except for the parties to the dispute, that then the parties thereto may legally go to war.

Fifth. All conflicts between States not members of the league would under the covenant appear to be legal under the covenant, though the league declares its right and intention to interfere in them if it desires.

Sixth. The high contracting parties may take a hand in any war under the stipulations of article 11, that "any war or threat of war, whether immediately affecting any of the high contracting parties or not, is hereby declared a matter of concern to the league, and the high contracting parties reserve the right to take any action that may be deemed wise and effectual to safeguard the peace of nations."

Seventh. Under the provisions of articles 17, 12, and 16, disputes between States members of the league and States not members of the league may lead to legal wars either between the two States themselves or between the disputants—one or both—and the league, or the high contracting parties.

In all of these cases the covenant recognizes the legality of a state of war. But the covenant goes way beyond this and provides for and requires that in certain far-reaching controversies the parties must go to war. Without attempting to spell out from this instrument the full number of cases in which war is mandatory, I confine myself to three:

First. By this document we, as one of the high contracting parties, obligate ourselves to preserve by force of arms, if necessary, the territorial integrity and political independence of all States members of the league.

Second. If any of the high contracting parties breaks or disregards its covenants under article 12—the covenant

dealing with resort to arms—then, as a member of the league, we must fly to arms to protect the covenants.

Third. If any nonmember of the league, either accepting or not accepting the obligations of membership in the league for the purposes of the dispute, acts in such way as would constitute a violation of article 12, if the State were a member of the league, then we must go to war to protect the covenants of the league.

And in all these three cases, whether or not we participate and the amount of our participation in belligerent operations is determined not by ourselves but by the executive council in which we have seemingly, at most, but one voice out of nine, no matter what we think of the merits of the controversy, no matter how we view the wisdom of a war over the cause, we are bound by this covenant to go to war when and in the manner the executive council determines. Thus it is seen that in this alleged instrument of peace war is legalized in seven cases and made compulsory in three.

And in this connection, as bearing upon our financial and economic burdens outside those connected with carrying on our share of the war, I ask your consideration of the last paragraph of article 16, by which “the high contracting parties agree further that they will mutually support one another in the financial and economic measures which may be taken under this article, in order to minimize the loss and inconvenience resulting from the above measures.” What our contributions will be under this, how much our citizens must be ground down by taxes to take care of wild and extravagant expenditures which we did not and would not initiate and over which we would have no control, only an all-wise Providence can foresee.

Thus the proposed covenant, instead of abolishing war, actually sanctions, breeds, and commands it. Moreover, it absolutely requires that every future war shall be a potential world war, and that we shall be an active participant in every such war. We are thus thrust fully into the terrible cauldron of European politics, and every outbreak in the Balkans—even domestic, if it threaten international war—will call for some expenditure of treasure, for some shedding of American blood, for some loss of American life. It is idle to say and fatuous to hope or believe these outbreaks will not occur, for ambitious men do not hesitate to waste life in order to punish an enemy or gain a goal.

The plan, therefore, fails to meet the first test.

We come now to the second question I proposed—Do the provisions of the proposed covenant strike down the precepts of the Constitution? A mere listing of some of the more conspicuous provisions of each show that it does.

Under the Constitution the Congress of the United States has the exclusive power to declare war. The proposed covenant puts the power of declaring war in the hands of the executive council, in which, it is true, we have a voice but not the constitutional voice. Thus, whether Congress wishes or not, whether the people wish or not, we may be forced into war, with all its sacrifices of life, in a cause in which we have no real concern and with which we may be out of sympathy, under the penalty that if we do not go to war we shall, by breaking a covenant of the league, bring war upon ourselves by the balance of the world.

Under the Constitution the Congress of the United States has the exclusive power to raise and support armies and to provide and maintain a Navy. The covenant pro-

vides that the executive council shall formulate plans limiting the size of our Army and Navy, that the council shall then "determine for the consideration and action of the several Governments what military equipment and armament is fair and reasonable in proportion to the scale of forces laid down in the program of disarmament, and these limits when adopted shall not be exceeded without the permission of the executive council."

If we act in good faith under this agreement we shall, of course, adopt the armament limits, which, as a member of the executive council, we shall have assisted in formulating. Thereafter, no matter what our necessity or what its urgency, no matter what Congress or the people themselves may think the situation requires, we can not raise a single man beyond our limit save and except it be approved by the executive council in which we are one of nine participating States. If war were abolished this might be tolerable, but with war legalized even between members of the league and actually commanded in certain contingencies this may spell for us overwhelming disaster.

Under the Constitution, a treaty becomes effective upon its ratification, following the advice and consent thereto of the Senate. Under the covenant no treaty becomes binding until it has been registered with the secretary-general of the league.

It seems reasonably certain, moreover, that situations calling for unconstitutional action by this Government might arise under the provisions of article 16 relating to financial and economic measures of support and article 20 relating to freedom of transit and equitable treatment for commerce, because under these provisions the league might demand the making of laws which in the sound discretion of Congress ought not to be made and yet Congress might

find itself under the compelling force of war with the entire league to enact such legislation. And next to the powers of war, no powers are more far-reaching or vital than those which control the financial and economic life of the Nation.

One other matter demanding consideration, the question of mandates, may be appropriately dealt with here. The provisions of the covenant relating to this subject are so loosely drawn, purposely or otherwise, that one can not tell just how the mandatory States are to be selected. It is true that, with reference to the communities formerly belonging to the Turkish Empire, it is stated that the wishes of the communities must be a principal consideration in the selection of the mandatory power, but this provision is not made as to any of the other colonies or territories for which provision is to be made, and this notwithstanding the principle of self-determination adopted, as have been reported in the press, by all the powers now in conference. Are the mandatory States to be chosen by the high contracting parties, by the members of the league, by the body of delegates, or by the executive council? Or is the State protected, for stripped of the new-day verbiage a protectorate is really provided for, other than the Turkish Empire communities, to indicate or to pick out from the league membership or from States not league members or from the high contracting parties, that particular State which the protected State wishes as a protector? It is clear, however, that the protecting State, the mandatory, will have in the matter no choice or voice other than that which it exercises in the body of delegates or in the executive council or as a member of the high contracting parties, whichever makes the choice. But no matter who picks the mandatory power, clearly some one beside ourselves has

the power to say whether and when our boys and how many of them shall be sent to the arid regions of Armenia, or to the sleeping-death regions of central Africa, or to the wildernesses of southwest Africa, or to the inhospitable South Pacific Isles, and when they get there it will be somebody else beside ourselves who will determine how long they shall remain, by what laws they shall govern the people, and what shall be their measure and rules of protection. For it is clear—that is as clear as the covenant makes anything—that the terms of the protectorate are to be determined not by and between the protecting and protected States, but by the high contracting parties or they failing by the executive council in a special act or charter.

Moreover, it seems a matter of certain deduction that as parties other than ourselves are to determine the size of the army of occupation which we shall send, the methods and nature of its operations, the length of time it shall remain there, the rules and principles by which it shall govern the peoples of the occupied territory, and the kind and extent of the upbuilding work which shall be performed by the protecting State, then somebody else beside ourselves must decide how many billions—for we speak now only in such terms—we shall wring from our own people by taxation and spend in the territory over which we have been made mandatory, perhaps against not only our own free desires but the will of the protected peoples themselves.

I take it to be unnecessary to point out how destructive all these things would be of our Constitution, which lodges in the Congress the power to raise and equip armies, to raise revenue, and make appropriations—in both matters solely in accordance with the discretion of Congress, and which lodges in the National Executive the power to con-

trol and direct the operations of any army in the field, including the power to lay down the rules which shall operate and control between the occupying army and the inhabitants of the territory occupied.

Thus this covenant will, if it becomes operative, strike down most vital provisions of our Constitution, and here again it fails to meet the test.

I am now to the third question I have put: Are the provisions of the proposed covenant destructive of our sovereignty?

Cast up in your mind the colossal powers granted to the executive council, in which, be it always remembered, we are but one of nine participating powers; recall the far-reaching and vital covenants into which we shall enter as one of the high contracting parties; and hold in mind that we are to give up the power to say when we shall have war, when peace, what shall our Army number, how many vessels of war shall we have, how, when, where, and under what conditions shall our Army and Navy be used, when shall our treaties be binding, what shall our treatment of commerce be, how great shall our gift of funds to other powers, and, therefore, how great the tribute we shall pay? Consider all these, and you can not but say that our sovereignty has in matters of national life and death been destroyed.

Pause, Mr. President, and consider what it is proposed to do—to take from the social organism not alone the right but the power of self-defense. We shall stand not only naked but bound and helpless.

Why, Sir, it is contrary to the eternal course of nature, exhibited in all her works since the dawn of time, for a defenseless organism to survive, whether that organism be plant, animal, or social. How, then, shall we hope to live?

I come now to the fourth and last of my tests: Will this plan, if put into operation, threaten our national independence and life?

Judged by all the standards of the past, by history and by experience, we must answer that it does.

It threatens our life in respect of all those matters in which our sovereignty is impaired, because when sovereignty goes, life as a nation goes. Independence goes when our conduct is dictated by others, when our continued existence depends upon the will of others, when we are no longer able to avail ourselves of our wonted means of defense, actual or by anticipation.

That under this plan our conduct is dictated by others can not be gainsaid when we recall that we may be launched into a world-wide war without the power of determining what our participation shall be, either in men, armament, or money. That our continued existence depends on the will of others is clear from the fact that, disarmed by the mandate of the league, we shall not be permitted to increase our armament save by the consent of the executive council, no matter how great or pressing the emergency or the danger.

That we may no longer avail ourselves of our wonted means of defense, actual or by anticipation, is not to be successfully denied, as one illustration will suffice to show.

It was Thomas Jefferson who said, "Our first and fundamental maxim should be never to entangle ourselves in the broils of Europe; our second, never to suffer Europe to intermeddle with cis-Atlantic affairs." On this latter principle Monroe announced later the doctrine which bears his name, namely, "We should consider any attempt on their part—the part of European powers—to extend their systems to any portion of this hemisphere as danger-

ous to our peace and safety "; and, " We could not view any interposition for the purpose of oppressing them—the young American Republics—or controlling in any other manner their destiny by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States." It was Secretary Olney who said, " To-day the United States is practically sovereign on this continent and its fiat is law upon the subjects to which it confines its interposition."

To say that the elaborate plan now before us which contemplates and provides for the mastery of the world does not run counter to these announced principles, is to be blind to the plainest meaning of plain language. Moreover, to contend that this great doctrine, which embodies a vital principle of policy not a mere tenet of international rule or law is saved by the vague and general prescriptions of the covenant preamble or by the poorly worded declarations of article 1, is either to convict of a failure to understand the question or of a deliberate attempt to impose on the credulity of those who have not had opportunity to read the document themselves. No, Mr. President, if we adopt this plan we take from the Monroe doctrine its life, we do not longer control the destinies of America, and the great national security which for a century has thereby come to us, has gone, perhaps forever.

Thus the plan fails to meet each and every of the tests I have applied. It does not abolish or prevent wars and it does sanction and commend them. It does strike down great constitutional principles, bulwarks of our protection. It does rob us of the utmost vital attributes of sovereignty. It does threaten our independence and life.

Why, then, and I ask it in all sincerity, this feverish

anxiety for the adoption of this plan? Why is there this racing up and down over the face of the whole land by propagandists urging its adoption? What benefit is to come from such a sale of country as is urged upon us? Who are the beneficiaries of this betrayal of our people? No nation threatens us; no group of nations seeks our destruction; never before were we relatively so strong. War itself, the great curse of mankind, is further away to-day than it has been in centuries. Have we shown ourselves recreant when the world labors big with potential disaster? Let our billions of treasure poured out as from perpetual fountains, our tens of thousands of young lives nobly sacrificed in a great cause, answer. Has famine failed to appeal to us? Count the millions of tons of food we send to feed the starving. Have we been deaf to the cry of the oppressed? Count our young men in France. Have we failed to love liberty and humanity better than life itself? Ask the mothers whose sons lie on the battlefields of Europe.

Can we not be trusted again to come to the rescue when again popular government, civilization, and human right threaten to be overwhelmed? I challenge any man or nation to say nay. Why, then, this plan to strangle and crush us? Mr. President, there is here something amiss. We stand here in the Senate of the United States, and soberly and anxiously, debate, plan, and consider, not as did our fathers before us, on how can we best preserve and augment our liberties and make ourselves and our posterity free men, but on the dark and gloomy problem, what is the greatest bondage which we can put on our backs and live.

“But,” we are told, “look at the mighty wastage, the sorrow, the suffering and agony, the slavery, and the death

of this great universal war—is there not some way to prevent the world from being again so cursed? Our industrial and economic relations we can cover by separate trade agreements with individual countries, but can we not do something to avert the horrors of war?”

Yes; there are ways, some of them simple and well tried.

One way is to provide for the compulsory arbitration of all disputes under some such plan as that provided for in the international prize court, or the unratified American-British and American-French arbitration treaties of 1911, or the Olney-Pauncefote treaty of 1897, or a union of the best in all of them.

We need not worry about the enforcement of the awards of the arbitral court, for I recall no case between great powers in which an award made has not either been carried out as given or has not led to an adjustment mutually satisfactory to both parties. We may forget armed force in this and look to the reign of law and order. If small States should be recalcitrant as between themselves, means of persuasion can be found that will satisfy all needs.

This will adjust peacefully the great bulk of our disputes, including questions of territorial extent and thus prevent war. We had the proud privilege, by the Jay treaty of 1794 with Great Britain, to usher in “the modern era of arbitration.” From then till the present, almost a century and a quarter, arbitration has saved us from all but three relatively small international wars, barring this last, and compulsory arbitration might have saved us even this. Let us not discard or think lightly of arbitration as a means of preventing war.

A second way would be this: If we feel that world interests and power are reshaping in such way that we need to be protected and that we need to protect others,

then let us form an alliance with the strongest other power or two powers of the world for mutual protection. That we be not thrown into quarrels in which we would have no sympathy, we must choose as our allies those powers whose traditions, institutions, ideals, and people are most like our own. If we are as ready to fight for them as we will be—under the present supposition—to have them fight for us, let us make this as strong an alliance as can be written, because from a shadowy one we shall have all the disadvantages and few of the advantages of a strong one. In either event, such a definite understanding between ourselves and our allies will obviously and inevitably drive the balance of the world into a counteralliance, which can not but bring trouble in the future.

Or, in the third place, if the people of the United States—not a clamorous part of them, but a great majority—desire to establish a true league of nations; if they feel either the need or the desirability of creating an organization to stop war and not merely to build a coalition to further trade or to preserve and expand territorial possessions; and if so feeling, and to this end they are willing, to make the present necessary sacrifice in independence and sovereignty and the inevitable future sacrifice of untold American treasure and life, then we may proceed as follows:

At a convenient and proper time in the relatively near future we shall cooperate with the representatives of all the other powers in the formation among all, not a portion, of the nations of the world an international league. Among the first articles of the constitution which shall create this league should be one which shall provide that war is thereby declared to be an international crime and

that any nation engaging in war, except in self-defense when actually attacked, shall be punished by the world as an international criminal.

This constitution should also provide that all disputes relating to international matters as defined by an international code should be decided by an international court.

The code would define what war is and would discriminate between aggressive and defensive war, between assault and protection, and would outlaw one and not the other, for no system of law ever enacted or wisely projected has penalized self-defense by man or by State. Existence ceases when the right and power of self-defense is gone.

This code would also provide that one nation could not summon another before the international court, except in respect to a matter of international and common concern to the contending nations, and that the jurisdiction of the court would not extend to matters of governmental policy, which would be excluded from arbitration unless one of the disputing parties had by treaty or otherwise given another country a claim that might involve these subjects. Under such a code we would not be called upon to arbitrate the policy involved in our Monroe doctrine, our conservation policy, our immigration policy, our right to expel aliens, our right to repel invasion, our right to maintain military and naval establishments, or coaling stations within our own borders or elsewhere, as the protection and development of this country might demand, our right to make necessary fortification of the Panama Canal, or on our frontiers, our right to discriminate between natives and foreigners in respect to rights of property and citizenship, and other matters of like character.

The international court should be authorized by the league constitution to call upon the powers signatory to enforce its decrees and awards as against unwilling States by force, economic pressure, or otherwise.

The court should sit in the hemisphere of the contending nations; and if the disputants lived in opposite hemisphere, then in the hemisphere of the defendant power.

The constitution should further provide that if it were necessary to enforce a decree against an American power refusing to follow the decree of the court that such decree should be enforced by the countries of this hemisphere; that if a decree of the court must be enforced against a country of the Eastern Hemisphere, then it should be by such means and methods and by such forces and powers as the court and the powers of that hemisphere should decide.

A league framed on these broad lines would carry with it a minimum of loss of our sovereignty; it would relieve us from participation in the broils of Europe; it would preserve the Monroe doctrine and save America from the results of European aggression and intrigue; it would reduce to the minimum the causes of war; and would make the waging thereof otherwise than in self-defense when attacked a public crime, punishable by the combined forces of the world.

But, Mr. President, these are not the problems which now press urgently upon us. As I have recently proposed to the Senate, let us have an end of all this. Let the discussion of a league of nations be postponed for later consideration not alone by the victorious belligerents but by all the nations if and when at some future time a general conference on this subject may be both possible and useful. Professing as we do to have all humanity for our concern,

let us not in our league outlaw a great part of the civilized world. Let us see to it that this league which is to usher in a reign of righteousness upon the earth shall comprise all peoples that dwell upon it, including our regenerated, democratized enemy.

Meanwhile our cobelligerents need have no anxiety, for so surely as the sun rises if the Hun flood again threatened to engulf the world, we shall again be found fighting for the right, with the same complete accord and cooperation as in the past, all for the defense of civilization.

And why should this be our course, because, Mr. President, a million and a half of our boys are marking time in Europe, waiting patiently, anxiously, their eyes turned across the water, for the signing of the treaty of peace that shall allow them to return to the homeland, to the family hearths which need them and which they need. How much longer shall their return wait on academic discussion of unattainable dreams? How much longer shall they for this suffer exposure and hardship and endure disease? How many more of them must die "over there"? While the Hun thrust forth his cruel, blood-thirsty hulk, they gladly abode there and gave their all, even to life itself, but now that he cowers, like a whipped cur in his kennel, they feel that their work is finished. They want to come home.

Remembering what they have given, what they were willing to give, and what their dead comrades have given; remembering the wan-faced waiting mothers, wives, and children; remembering the wrack, the weariness, and the heartache of it all, we must find a way to grant their scant but deep-felt wish.



